

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 39, “Filing Return and Payment of Tax,” Iowa Administrative Code.

Rule 701—39.12(422) implements Iowa Code section 422.21(2), which provides an extension for filing Iowa income tax returns for certain people serving in combat zones or hazardous duty areas and for certain other members of the military. This extension is available, both for Iowa purposes and at the federal level, to certain civilians serving in support of the military in combat zones or hazardous duty areas. However, the existing rule does not mention civilians who may qualify, which has led to confusion among affected Iowa taxpayers. This proposed amendment provides updated guidance on which civilians qualify and how a qualifying person may apply for an extension with the Department. This amendment also reorganizes the rule to make it more user-friendly and removes some outdated references.

Interested persons may make written comments on the proposed amendment on or before June 13, 2017. Written comments on the proposed amendment should be directed by mail to Ben Clough, Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to ben.clough@iowa.gov. Persons who wish to convey their views orally should contact Ben Clough, Legal Services, Department of Revenue, by telephone at (515)725-2176 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 13, 2017.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that this amendment is not likely to have a significant impact on jobs.

This amendment is intended to implement Iowa Code section 422.21.

The following amendment is proposed.

Amend rule 701—39.12(422) as follows:

701—39.12(422) Tax benefits for persons in the armed forces deployed outside the United States and for certain other persons serving in support of those forces.

39.12(1) Extension of deadlines.

a. Extension of certain deadlines for certain military personnel.

(1) For tax years ending after August 2, 1990, ~~a number of state tax benefits are authorized the time period to file state income tax returns and to perform certain other acts related to the department (“certain other acts related to the department” is defined in paragraph 39.12(1)“e” below) is extended~~ for persons in the armed forces ~~who~~:

1. Who serve in an area designated by the President ~~and~~ or the Congress as a combat zone. ~~Similar state tax benefits are also authorized for persons who~~

2. Who serve in an area designated by the President ~~and~~ or the Congress as a qualified hazardous duty area ~~for tax years beginning on or after January 1, 1999. In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who~~

3. Who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003.

(2) For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department described in this subrule is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department.

b. Extension applicable to certain civilians. Those persons who were serving in support of the armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the state tax benefits extension of the time period to file state income tax returns and to perform certain other acts related to the department. Persons eligible under this provision include certain civilians who were working in a combat zone and directly supporting military operations. Iowa allows this extension for those civilians who qualify for a federal extension under Section 7508(a) of the Internal Revenue Code. Examples of civilians who may be eligible are members of the Red Cross and contractors or civilian employees who worked in a combat zone. The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. "Other acts related to the department of revenue" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

c. Extension applicable to spouses of eligible individuals. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed.

d. Length of the extension period. Eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation which is the same time period as allowed in federal income tax law. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

e. Other acts related to the department defined. "Other acts related to the department" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

39.12(2) Application for the extension. For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the

~~hazardous duty area are eligible for the tax benefits described above. See rule 701—39.14(422) for additional information on the Bosnia-Herzegovina hazardous duty area. In order to claim the extension described in subrule 39.12(1), eligible taxpayers should notify the department of their eligibility by sending the information listed below to the e-mail address or other address listed on the department's Web site.~~

a. Contents of the notification. The notification sent to the department should include:

- (1) The taxpayer's name, and spouse's name, if applicable.
- (2) The taxpayer's stateside address, and spouse's address, if applicable.
- (3) The taxpayer's date of birth, and spouse's date of birth, if applicable.
- (4) The date the taxpayer was deployed to the combat zone or other qualifying area.
- (5) For military personnel, an official document that indicates the taxpayer's area of operation.
- (6) For qualifying civilians, a letter of authorization or similar letter from the taxpayer's employer, or a letter from the military stating that the taxpayer served in a "tax-free zone" or "Combat Zone Tax Exclusion Area (CZTE)."

b. Who may submit the notification of eligibility for the extension. The notification of eligibility to the department may be submitted by the taxpayer, the taxpayer's spouse, or an authorized agent or representative of the taxpayer.

39.12(3) ~~For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department of revenue described in subrule 39.12(1) is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department of revenue.~~

This rule is intended to implement Iowa Code sections 422.3 and 422.21 ~~as amended by 2009 Iowa Acts, Senate File 253.~~